



U.S. Department of Justice

Andrew E. Lelling
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

December 22, 2020

Via email: bgrossberg@grossberglaw.com

Bernard Grossberg, Esq.
38 Green Street
Milton, MA 02186

Re: United States v. Shawn Herron, 20-cr-10145-FDS

Dear Counsel:

I write in response to your December 9, 2020 letter regarding various discovery matters.

First, I note that the government has provided you with copies of its entire automatic disclosure production to prior defense counsel as well as the thumb drive for the phone extraction. These materials include all prior letters to counsel, including the government's automatic disclosure letter. Your letter suggests that you have not reviewed the entirety of the government's production as it requests many pieces of information which are already in your possession.

Second, your recent letter requests many irrelevant items, which the government will not provide without further discussion that sheds light on their relevancy. I have reached out to you on numerous occasions, including upon first receiving your letter, and await our discussion. Please call me at your earliest convenience to discuss and certainly prior to filing any motion with the court, as is required under the Local Rules.

Third, the government has agreed to allow you to take a view of the Fall River Post Office. This will take place on December 30, 2020 at 6:45 p.m. The case agent and I will meet you there.

Fourth, although defendant is not clearly entitled to some of the below items, the government will voluntarily provide some of the requested information. I address each request below, with my response in bold:

- The precise name, if there is any other name of the Fall River Post Office. **The government understands that it is also called the Fall River Main Post Office. There are also branch offices as follows: Fall River Flint, Fall River South, Fall River Highland, and Fall River Somerset.**

- The zip codes of the areas for which the Fall River Post Office receives and distributes mail. **The Fall River Main office receives and distributes mail for 02721, 02722(box section), 02723. These 3 zips are delivered out of the Main office. The Fall River South Station (02724) parcels are scanned AAU (Arrival at Unit) at the Fall River main office by clerks and then transported to the South Station branch and distributed there to the carriers for delivery.**
- The names and present addresses of all person's employed at the Fall River Post Office from in or about September, 2018 through in or about February 2020. **Defendant is not entitled to addresses at this point. The government has requested further information and understands that it will be difficult to provide a list of all employees, which include temporary additional staff, for this time period. The government requests that defendant clarify what it is he seeks and we will work to provide what is readily available.**
- The specific name of the position that the defendant held at the Fall River Post Office from in or about September, 2018 through and about February, 2020. **The defendant held the position of Manager Customer Service Fall River Main Office.**
- Any and all written job description or other descriptions of the position that the defendant held at the Fall River Post Office in or about September, 2018 through in and about February, 2020. **The government here with provides the job description at Bates HERRON_000063 – HERRON_000064.**
- Any and all reports or other written documents regarding or pertaining in any way to evaluations, assessments or reviews of the defendant's job performance conducted by the Postal Service or by any other governmental agency in regard to the defendant's work at the Fall River Post Office. **The government questions the relevance of this request, but has nevertheless inquired with the Postal Service and agrees to a further discussion with defense counsel. The government notes that it has requested PES Performance Evaluation Systems reports for 2018/2019/2020 and has received the enclosed evaluation at Bates HERRON_000065 – HERRON_000070.**
- The number of items received by the Fall River Post Office, including letters, envelopes and parcels, for delivery, from in on or about September, 2018 through in or about February, 2020. **The government objects to this request as irrelevant, unduly burdensome, and seeking information which does not exist.**
- The number of parcels received by the Fall River Post office, for delivery from on or about September 2018 through February 2020, which were reported or otherwise recorded as missing and/or not delivered to the listed recipient. **The government objects to this request as irrelevant, unduly burdensome, and seeking information which does not exist.**
- A description of the procedure and device utilized to "scan" items that were received by the Fall River Post Office from in or about September, 2018, through February, 2020. **The government understands that devices used to scan items RECEIVED are IMD**

(Intelligent Mail Device), ring scanners attached to DSS, and the PASS machine. These three devices are used to scan parcels AAU (Arrival at Unit). See enclosed at Bates HERRON_000071 – HERRON_000085.

- A description of the procedure and device utilized to "scan" items that were distributed by the Fall River Post Office from in or about September, 2018 through February, 2020. **The government understands that devices used to scan items DISTRIBUTED here are IMD (Intelligent Mail Device) and MDD (Mobile Delivery Device). These two devices are used to scan parcels the appropriate delivery scan (e.g., delivered, left notice, hold or undeliverable). See enclosed at Bates HERRON_000071 – HERRON_000085.**
- A description of the video cameras utilized in the Fall River Post Office, including their respective locations and intended sight views from in or about September, 2018 through February 2020. **The government is unclear what defendant is requesting.**
- Copies of any and all surveillance videos of the defendant in the Fall River Post Office from in or about September, 2018 through February, 2020. **See previous discovery.**
- A description of the procedure and device by which an employee, including the defendant, signs in and out of work at the Fall River Post Office from or about September, 2018 through February, 2020. **The government understands management generally do not sign in and out of work as they are on auto clock rings and are salaried, not hourly employees.**
- Copies of any and all time records or reports compiled by the device by which employees, including the defendant, sign in and out of work at the Fall River Post Office from in or about September, 2018 through February, 2020. **Given the answer to the immediately preceding request, the government is not certain what, if any, information exists, but has inquired as to this request and will follow up with defense counsel.**
- Copies of reports regarding, and/or copies of statements made by or attributed to any and all persons to be called as witnesses at trial and/or who were interviewed by postal inspectors regarding the charges herein. **See automatic disclosure letter.**
- Any and all information known to the government or by the exercise of due diligence can be ascertained by the government of statements of promises, inducements or awards of any kind or nature made to any and all witness or witnesses. **See automatic disclosure letter.**
- Copies of the complete criminal records of any and all person or persons to be called as witnesses at trial and/or who were interviewed by Postal Inspectors regarding the charges herein. **See automatic disclosure letter.**

- Copies of an and all photographs and photographic arrays shown or exhibited to a person or persons to be called as witnesses at trial and/or who were interviewed by Postal Inspectors regarding the charges herein. **See automatic disclosure letter.**
- Copies of reports regarding or describing any and all scientific or forensic test performed by the government or its agents or any and all evidence involved in this matter, regardless of whether or not the government intends to introduce such evidence at trial, including, but not limited to, the scientific name of any such test, the date the test was performed, the name of the person who performed the test and his or her qualifications, the nature of the evidence on which the test was performed, the results of the test and the opinion if any, of the person who performed the test regarding the test or results of the test. **The defendant is not entitled to additional information at this time. The government has produced reports, including internal Postal reports and the telephone extraction. Further detail will be provided closer to trial, consistent with the Rules.**
- Any and all facts, whether written or not, which are in the possession, custody or control of the government or by the exercise of due diligence can be ascertained, which indicate, infer or otherwise state, that a person or persons other than the defendant committed the offenses involved herein. **See automatic disclosure letter.**
- A list of all evidence in the possession, custody or control of the government which the government intends to rely on and/or introduce in evidence at trial or which related in any way to the charges involved herein. **See automatic disclosure letter.**

The government reserves the right and understands its obligation to supplement discovery.

Very truly yours,

ANDREW E. LELLING
United States Attorney

BY: /s/ Eugenia M. Carris
Eugenia M. Carris
Assistant U.S. Attorney

Encl: HERRON_000063 – HERRON_000085



U.S. Department of Justice

Andrew E. Lelling
United States Attorney
District of Massachusetts

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John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

January 12, 2021

Via email: bgrossberg@grossberglaw.com

Bernard Grossberg, Esq.
38 Green Street
Milton, MA 02186

Re: United States v. Shawn Herron, 20-cr-10145-FDS

Dear Counsel:

Thank you for speaking with me on January 7, 2021. I write in further response to your December 9, 2020 letter regarding various discovery matters and incorporate my letter of December 22 herein.

I believe that there are only a few outstanding matters per our telephone conversation last week. Please advise if I have left anything out from our discussion. As referenced in my email of yesterday, we continue to work with you to access the thumb drive which contains the phone dump and I understand you are being assisted by our LitTech department.

Below I have listed your requests, my response on December 22 in bold, and my further responses today in italics. If an enclosure is listed in bold, then it was provided with the December 22 letter and not again here. I note that if there is no further response in italics, that I do not believe you are requesting any further information:

- The precise name, if there is any other name of the Fall River Post Office. **The government understands that it is also called the Fall River Main Post Office. There are also branch offices as follows: Fall River Flint, Fall River South, Fall River Highland, and Fall River Somerset.**
- The zip codes of the areas for which the Fall River Post Office receives and distributes mail. **The Fall River Main office receives and distributes mail for 02721, 02722(box section), 02723. These 3 zips are delivered out of the Main office. The Fall River South Station (02724) parcels are scanned AAU (Arrival at Unit) at the Fall River main office by clerks and then transported to the South Station branch and distributed there to the carriers for delivery.**

- The names and present addresses of all person's employed at the Fall River Post Office from in or about September, 2018 through in or about February 2020. **Defendant is not entitled to addresses at this point. The government has requested further information and understands that it will be difficult to provide a list of all employees, which include temporary additional staff, for this time period. The government requests that defendant clarify what it is he seeks and we will work to provide what is readily available. As discussed, I provide a list of staff at Bates HERRON_000086 to HERRON_000123 and understand that you are not pressing for addresses at this time.**
- The specific name of the position that the defendant held at the Fall River Post Office from in or about September, 2018 through and about February, 2020. **The defendant held the position of Manager Customer Service Fall River Main Office.**
- Any and all written job description or other descriptions of the position that the defendant held at the Fall River Post Office in or about September, 2018 through in and about February, 2020. **The government herewith provides the job description at Bates HERRON_000063 – HERRON_000064.**
- Any and all reports or other written documents regarding or pertaining in any way to evaluations, assessments or reviews of the defendant's job performance conducted by the Postal Service or by any other governmental agency in regard to the defendant's work at the Fall River Post Office. **The government questions the relevance of this request, but has nevertheless inquired with the Postal Service and agrees to a further discussion with defense counsel. The government notes that it has requested PES Performance Evaluation Systems reports for 2018/2019/2020 and has received the enclosed evaluation at Bates HERRON_000065 – HERRON_000070. As discussed, I have made additional requests for information. I enclose a draft disciplinary report at Bates HERRON_000124 – HERRON_000126 which shows that your client was written up for scanning irregularities in 2019. I understand from Postal that its Labor Department never received a scanned copy back, so this document is the draft sent out for issuance. I believe your client grieved this action, but have no further information at this time. Please advise what your client believes the outcome was.**
- The number of items received by the Fall River Post Office, including letters, envelopes and parcels, for delivery, from in on or about September, 2018 through in or about February, 2020. **The government objects to this request as irrelevant, unduly burdensome, and seeking information which does not exist. As discussed, I have inquired as to what statistics exist, but note that the conduct at issue here by your client would not necessarily be captured by what you request and so the government disputes that this information is exculpatory.**
- The number of parcels received by the Fall River Post office, for delivery from on or about September 2018 through February 2020, which were reported or otherwise recorded as missing and/or not delivered to the listed recipient. **The government objects to this request as irrelevant, unduly burdensome, and seeking information which does not exist. See answer above.**

- A description of the procedure and device utilized to "scan" items that were received by the Fall River Post Office from in or about September, 2018, through February, 2020. **The government understands that devices used to scan items RECEIVED are IMD (Intelligent Mail Device), ring scanners attached to DSS, and the PASS machine. These three devices are used to scan parcels AAU (Arrival at Unit). See enclosed at Bates HERRON_000071 – HERRON_000085.**
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- A description of the video cameras utilized in the Fall River Post Office, including their respective locations and intended sight views from in or about September, 2018 through February 2020. **The government is unclear what defendant is requesting.** *As discussed, we provided the videos of defendant in automatic discovery and provide a floor plan as you requested herein at Bates HERRON_000127.*
- Copies of an and all surveillance videos of the defendant in the Fall River Post Office from in or about September, 2018 through February, 2020. **See previous discovery.**
- A description of the procedure and device by which an employee, including the defendant, signs in and out of work at the Fall River Post Office from or about September, 2018 through February, 2020. **The government understands management generally do not sign in and out of work as they are on auto clock rings and are salaried, not hourly employees.**
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- Copies of reports regarding, and/or copies of statements made by or attributed to any and all persons to be called as witnesses trial and/or who were interviewed by postal inspectors regarding the charges herein. **See automatic disclosure letter.**
- Any and all information known to the government or by the exercise of due diligence can be ascertained by the government of statements of promises, inducements or awards of any kind or nature made to any and all witness or witnesses. **See automatic disclosure letter.**

- Copies of the complete criminal records of any and all person or persons to be called as witnesses at trial and/or who were interviewed by Postal Inspectors regarding the charges herein. **See automatic disclosure letter.**
- Copies of an and all photographs and photographic arrays shown or exhibited to a person or persons to be called as witnesses at trial and/or who were interviewed by Postal Inspectors regarding the charges herein. **See automatic disclosure letter.**
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- Any and all facts, whether written or not, which are in the possession, custody or control of the government or by the exercise of due diligence can be ascertained, which indicate, infer or otherwise state, that a person or persons other than the defendant committed the offenses involved herein. **See automatic disclosure letter.**
- A list of all evidence in the possession, custody or control of the government which the government intends to rely on and/or introduce in evidence at trial or which related in any way to the charges involved herein. **See automatic disclosure letter.**

The government reserves the right and understands its obligation to supplement discovery.

Very truly yours,

ANDREW E. LELLING
United States Attorney

BY: /s/ Eugenia M. Carris
Eugenia M. Carris
Assistant U.S. Attorney

Encl: HERRON_000086– HERRON_000127